

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

NANCY COLON ADORNO, et al.,

Plaintiffs,

v.

SOCIEDAD ESPAÑOLA DE AUXILIO
MUTUO Y BENEFICENCIA DE PUERTO
RICO, et al.,

Defendants.

Civil No. 03-1829(JAF)

(Consolidated with
04-1562(JAF))

O R D E R

Defendant Auxilio Mutuo moves for reconsideration of this court's June 3, 2005, Opinion and Order denying its motion to dismiss the complaint for failure to state a claim and lack of subject matter jurisdiction. Docket Document No. 164.

"Motions for reconsideration are entertained by courts if they seek to correct manifest errors of law or fact, present newly-discovered evidence, or when there is an intervening change in the law." Standard Química de Venezuela v. Central Hispano Int'l, Inc., 189 F.R.D. 202, 205 (D.P.R. 1999) (citing Jorge Rivera Surillo & Co. v. Falconer Glass Indus., Inc., 37 F.3d 25, 29 (1st Cir. 1994)). Defendant has made no showing, nor do we find, that any such circumstance is presented here.

Defendant's motion puts forward evidence correcting a factual ambiguity in our June 3, 2005 Opinion and Order. We stated, "On

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1 August 15, the Oncology Unit at UDH communicated that they would be
2 able to receive Decedent for treatment at 3:00 P.M. Accordingly,
3 Defendant Rodríguez ordered Decedent's transfer from Auxilio Mutuo to
4 UDH at 12:45 PM. Decedent's transfer to UDH was initiated at 8:30
5 PM."

6 In response, Defendant Auxilio Mutuo points to an exhibit
7 submitted at Docket Document No. 144, translated at Docket Document
8 No. 161, that indicates that UDH was unable to accept Decedent's
9 transfer until 7:30 PM. Docket Document No. 164.

10 As a preliminary matter, we note that Defendant Auxilio Mutuo
11 may be responding to an ambiguity in our phrasing. We based this
12 portion of our synopsis on Defendants Villafañá, Colón, and IDG's
13 Statement of Uncontested Facts, in which they asserted, "Dr. Dávila
14 from UDH accepted Mr. Miranda for transfer to the Oncology Unit at
15 3:00 PM." Docket Document No. 120, ¶2(E). In our synopsis, we
16 intended only to convey that at 3:00 PM, UDH communicated its ability
17 to receive Decedent that day, not that UDH was prepared to receive
18 Decedent exactly at 3:00 PM.

19 More importantly, to the extent that Defendant Auxilio Mutuo
20 seeks for us to reconsider our denial of its Motion to Dismiss, the
21 chronology of events on August 15, 2002- and in fact, the entire
22 factual record- is totally irrelevant to our consideration of a
23 motion to dismiss for failure to state a claim. As we explained in
24 great detail in our Opinion and Order, Plaintiff's claim need only
25 "include a federal claim within its four corners" to survive a Rule
26 12(b)(1) motion. Docket Document No. 163. We are mystified by

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1 Defendant Auxilio Mutuo's inability to grasp the relevant analytical
2 framework for a motion to dismiss, a difficulty that has become a
3 recurrent theme in these proceedings. Docket Document No. 163.

4 Interpreted favorably, Defendant Auxilio Mutuo may be asking us
5 to reconsider our decision regarding Defendants Villafaña, Colón, and
6 IDG's motion for summary judgment. Firstly, it is far from clear
7 whether a party may beg for reconsideration of a decision regarding
8 a co-party's motion. Secondly, a cursory reading of the Opinion and
9 Order reveals that the chronology of events regarding when UDH
10 indicated its ability to receive Decedent was not germane to our
11 decision to deny the motion, which was based on our finding that
12 Defendants Villafaña, Colón, and IDG had failed to establish the
13 absence of a material fact regarding whether Decedent's transfer was
14 effected through qualified personnel and transportation equipment.

15 We, therefore, **deny** Defendant's motion for reconsideration. No
16 further motions for reconsideration will be entertained by this court
17 with regards to our June 3, 2005 Opinion and Order.

18 **IT IS SO ORDERED.**

19 San Juan, Puerto Rico, this 12th day of August, 2005.

20 S/ José Antonio Fusté
21 JOSE ANTONIO FUSTE
22 Chief U.S. District Judge